

AMENDED IN ASSEMBLY APRIL 2, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2154

Introduced by Assembly Member Jones

February 20, 2014

An act to ~~amend Section 917.1 of~~ *add Section 917.75 to* the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2154, as amended, Jones. Appeals in civil actions: stay of enforcement.

Existing law provides that, unless an undertaking is given, the perfecting of an appeal shall not stay the enforcement of a judgment or order for money or the payment of money, or for costs awarded pursuant to specified provisions.

This bill would provide that the perfecting of an appeal shall also not stay the enforcement of a judgment or order for ~~attorneys'~~ *attorney's* fees or costs, or both, awarded ~~pursuant to specified provisions of the in a proceeding under the Family Code,~~ unless an undertaking is given ~~and the trial court determines that the enforcement of the judgment or order shall be stayed.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 917.75 is added to the Code of Civil*
- 2 *Procedure, immediately following Section 917.7, to read:*

1 917.75. *The perfecting of an appeal shall not stay enforcement*
2 *of the judgment or order of the trial court awarding attorney's*
3 *fees or costs, or both, if the judgment or order appealed from was*
4 *rendered in a proceeding under the Family Code, unless an*
5 *undertaking is given in a sum and upon conditions fixed by the*
6 *trial court.*

7 SECTION 1. ~~Section 917.1 of the Code of Civil Procedure is~~
8 ~~amended to read:~~

9 917.1. (a) ~~Unless an undertaking is given, the perfecting of an~~
10 ~~appeal shall not stay enforcement of the judgment or order in the~~
11 ~~trial court if the judgment or order is for any of the following:~~

12 ~~(1) Money or the payment of money, whether consisting of a~~
13 ~~special fund or not, and whether payable by the appellant or another~~
14 ~~party to the action.~~

15 ~~(2) Costs awarded pursuant to Section 998 that otherwise would~~
16 ~~not have been awarded as costs pursuant to Section 1033.5.~~

17 ~~(3) Costs awarded pursuant to Section 1141.21 that otherwise~~
18 ~~would not have been awarded as costs pursuant to Section 1033.5.~~

19 ~~(4) Attorney's fees or costs, or both, awarded pursuant to Section~~
20 ~~2030, 3121, 6344, 7605, or 7640 of the Family Code, unless the~~
21 ~~trial court determines that the enforcement of the judgment or order~~
22 ~~shall be stayed.~~

23 ~~(b) The undertaking shall be on condition that if the judgment~~
24 ~~or order or any part of it is affirmed or the appeal is withdrawn or~~
25 ~~dismissed, the party ordered to pay shall pay the amount of the~~
26 ~~judgment or order, or the part of it as to which the judgment or~~
27 ~~order is affirmed, as entered after the receipt of the remittitur,~~
28 ~~together with any interest that may have accrued pending the appeal~~
29 ~~and entry of the remittitur, and costs that may be awarded against~~
30 ~~the appellant on appeal. This section shall not apply in cases where~~
31 ~~the money to be paid is in the actual or constructive custody of the~~
32 ~~court. Those cases shall be governed, instead, by Section 917.2.~~
33 ~~The undertaking shall be for double the amount of the judgment~~
34 ~~or order unless given by an admitted surety insurer in which event~~
35 ~~it shall be for one and one-half times the amount of the judgment~~
36 ~~or order. The liability on the undertaking may be enforced if the~~
37 ~~party ordered to pay does not make the payment within 30 days~~
38 ~~after the filing of the remittitur from the reviewing court.~~

39 ~~(c) If a surety on the undertaking pays the judgment, either with~~
40 ~~or without action, after the judgment is affirmed, the surety is~~

1 substituted to the rights of the creditor and is entitled to control,
2 enforce, and satisfy the judgment, in all respects as if the surety
3 had recovered the judgment.

4 (d) Costs awarded by the trial court under Chapter 6
5 (commencing with Section 1021) of Title 14 shall be included in
6 the amount of the judgment or order for the purpose of applying
7 paragraph (1) of subdivision (a) and subdivision (b). However, no
8 undertaking shall be required pursuant to this section solely for
9 costs awarded under Chapter 6 (commencing with Section 1021)
10 of Title 14.